IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 11027 of 2007(S)

PETITIONER:

P.M.ISMAIL AGED 60,
S/O.PEERUKKANNU, CHITTUVEETTUMURI,
THOLIKKODU, NEDUMANGAD, THIRUVANANTHAPURAM,
THE PRESIDENT, THOLIKKODU PANCHAYATH VIKASANA
SAMRAKSHANA SAMITHI, THOLIKODU P.O.,
NEDUMANGADU, THIRUVANANTHAPURAM.

BY ADV. SRI.THIRUMALA P.K.MANI

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE PRINCIPAL SECRETARY (HEALTH),
SECRETARIAT, THIRUVANANTHAPURAM.

3. THE DIRECTOR, DIRECTORATE OF HEALTH SERVICE,
THIRUVANANTHAPURAM.

4. THE DISTRICT MEDICAL OFFICER,
THIRUVANANTHAPURAM.

5. THE SECRETARY,
THOLIKKODU PANCHAYATH, THOLIKKODU,
NEDUMANGADU, THIRUVANANTHAPURAM.

SENIOR GOVERNMENT PLEADER SMT.MEERA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

.....

W.P.(C) No. 11027 OF 2007

.....

Dated this the 11th June, 2007

J U D G M E N T

H.L. Dattu, C.J.:

Petitioner is an Ex-ward member of the Tholikkodu Panchayath and now he is the President of the Organization, Tholikkodu Panchayath Vikasana Samrakshana Samithi. The said Samithi is engaging in the activities for the development of the Tholikkodu Grama Panchayat. The petitioner claims that he has no personal interest in the matter other than the interest of the general public of the Tholikkodu Grama Panchayath.

2. In this petition, filed under Article 226 of the Constitution of India, the petitioner is seeking the following relief, which is as under:

"A direction to the respondents to pass appropriate orders creating additional posts required for starting the in-patient unit in the Primary Health Centre, Tholikkodu, Nedumangad and start the in-patient treatment in the above hospital forthwith."

3. Notice of this petition was ordered to be issued to the learned

Government Pleader **.**

4. On instruction, the learned Government Pleader produced before us the information received from the State Government dated 19.04.2007. The information, so received, is as under:

> *"Referring to your Fax, I am directed to request you to defend the case on behalf of Government when it comes up for hearing. In this connection, I am to inform you that the former Government , at the fag end of its tenure, decided in principle to start IP in PHC, Tholicode. But Government Order according sanction to start IP facility by creating additional posts could not be issued as the model Code of Conduct for Assembly Election 2006 came into force by then. Now Government have again examined the issue and decided not to start IP facility in PHC, Tholicode as Government intends to explore the possibility of improving PHCs/CHCs with the help of National Rural Health Mission (NRHM). In this regard, a reply has already been given to the President, Tholicode Panchayat Vikasana Samithi,* the petitioner in this case."

5. In the information furnished by the Government Pleader, the respondents have stated that the former Government, at the fag end of its tenure had decided in principle to start IP facility in the PHC, Tholicode. But Government orders, sanctioning to start IP facility by creating additional posts could not be issued as the model Code of Conduct for Assembly Election, 2006 came into force then. Thereafter, the State Government have examined the issue afresh and now it

intends to explore the possibility of improving PHCs with the help of National Rural Health Mission.

6. It is for the State Government to take care of the needs of its citizens. The State Government, in this regard, wants to improve the PHCs with the help of National Rural Health Mission. In matters of this nature, we cannot ask the State to improve the PHCs by a particular method or procedure. This has to be taken by the representatives of the public/citizens.

In that view of the matter, the relief sought for in this Writ Petition cannot be granted by this Court. Accordingly, it is rejected.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

lk

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

lk

H.L. DATTU, C.J. & K.T. SANKARAN, J.

.....

W.P.(C) No. 11027 OF 2007

.....

Dated this the 11th June, 2007

J U D G M E N T

H.L. Dattu, C.J.:

Petitioner is an Ex-ward member of the Tholikkodu Panchayath and now he is the President of the Organization, Tholikkodu Panchayath Vikasana

Samrakshana Samithi. The said Samithi is engaging in the activities for the development of the Tholikkodu Grama Panchayat. The petitioner claims that he has no personal interest in the matter other than the interest of the general public of the Tholikkodu Grama Panchayath.

2. In this petition, filed under Article 226 of the Constitution of India, the petitioner is seeking the following relief, which is as under:

"A direction to the respondents to pass appropriate orders creating additional posts required for starting the in-patient unit in the Primary Health Centre, Tholikkodu, Nedumangad and start the in-patient treatment in the above hospital forthwith."

3. Notice of this petition was ordered to be issued to the learned Government Pleader **.**

4. On instruction, the learned Government Pleader produced before us the information received from the State Government dated 19.04.2007. The information, so received, is as under:

> *"Referring to your Fax, I am directed to request you to defend the case on behalf of Government when it comes up for hearing. In this connection, I am to inform you that the former Government , at the fag end of its tenure, decided in principle to start IP in PHC, Tholicode. But Government Order according sanction to start IP*

facility by creating additional posts could not be issued as the model Code of Conduct for Assembly Election 2006 came into force by then. Now Government have again examined the issue and decided not to start IP facility in PHC, Tholicode as Government intends to explore the possibility of improving PHCs/CHCs with the help of National Rural Health Mission (NRHM). In this regard, a reply has already been given to the President, Tholicode Panchayat Vikasana Samithi, the petitioner in this case."

5. In the information furnished by the Government Pleader, the respondents have stated that the former Government, at the fag end of its tenure had decided in principle to start IP facility in the PHC, Tholicode. But Government orders, sanctioning to start IP facility by creating additional posts could not be issued as the model Code of Conduct for Assembly Election, 2006 came into force then. Thereafter, the State Government have examined the issue afresh and now it intends to explore the possibility of improving PHCs with the help of National Rural Health Mission.

6. It is for the State Government to take care of the needs of its citizens. The State Government, in this regard, wants to improve the PHCs with the help of National Rural Health Mission. In matters of this nature, we cannot ask the State to improve the PHCs by a particular method or procedure. This has to be taken by the representatives of the public/citizens.

In that view of the matter, the relief sought for in this Writ Petition cannot

be granted by this Court. Accordingly, it is rejected.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

lk